

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

In re: CARYN DEVINS STRICKLAND,

Petitioner.

No. 24-1353

**DEFENDANTS' NOTICE IN RESPONSE TO PLAINTIFF'S REQUEST
FOR DISCLOSURE OF RECORDS**

On July 10, 2024, plaintiff-petitioner Caryn Strickland requested that defendants voluntarily disclose “all public records from the intercircuit-assignment process in this case.” *See* Notice of Plaintiff's Request (July 10, 2024), ECF No. 19. As defendants have explained in detail in response to plaintiff's previous similar requests, there are no *public* records concerning the intercircuit assignment process, and the underlying documentation, like all working papers of the Judicial Conference, is ordinarily not subject to disclosure. *See* Response to Motion to Disclose, No. 21-1346 (4th Cir. Jan. 26, 2022), ECF No. 108; *see also Strickland v. United States*, 32 F.4th 311, 341-42 (4th Cir. 2022) (summarizing this filing). In the circumstances of this litigation, however, the Judiciary previously made a discretionary disclosure of several documents pertaining to the designation and assignment of the panel that handled an earlier appeal. Those documents included the

recommendation memorandum to the Chief Justice concerning the assignment of the judges who served on that panel, the certificates of necessity, and the cover letters accompanying the designation and assignment orders. *See* Exhibits A-C to Response to Motion to Disclose. The Judiciary is now making a further discretionary disclosure of the equivalent documents pertaining to the panel that has been assigned to this proceeding (as well as to any further appeals or mandamus actions arising out of the district court case). Those documents are attached to this notice.¹

Defendants note that they strongly disagree in numerous respects with the statements plaintiff has made in the series of notices related to her recent disclosure request. As this Court has previously explained in detail, where, as here, all judges of a district court or court of appeals recuse themselves, the Judiciary has a process in place for designating and assigning visiting judges. *Strickland*, 32 F.4th at 340-41. This Court rejected plaintiff's prior arguments that this process had been conducted in a manner that denied her a "due process right to a fair tribunal." *Id.* at 343-46. Although plaintiff's continued speculation regarding "fairness in this proceeding" (Updated Notice at 1 (July

¹ The May 16, 2024, memorandum to the Chief Justice also concerned two case assignments in unrelated litigation. Because those assignments are not relevant here, they have been redacted in the attached version of the memorandum.

18, 2024), ECF No. 22) is similarly unfounded, the Judiciary is nonetheless exercising its discretion to release the attached materials under the specific circumstances presented here.²

Respectfully submitted,

SARAH CARROLL

/s/ Kevin B. Soter

KEVIN B. SOTER

(202) 305-1754

Attorneys, Appellate Staff

Civil Division

U.S. Department of Justice

950 Pennsylvania Ave. NW

Room 7222

Washington, D.C. 20530

JULY 2024

² Plaintiff has also accused defendants (Updated Notice at 1) of “delay in responding” to her disclosure request, but it was necessary to consult numerous officials before this disclosure could be authorized.

EXHIBIT A



ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

HONORABLE ROBERT J. CONRAD, JR.
Director

WASHINGTON, D.C. 20544

May 16, 2024

MEMORANDUM

To: The Chief Justice

From: Judge Robert J. Conrad, Jr.
Director

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", is written over the printed name of the Director.

RE: INTERCIRCUIT ASSIGNMENTS

Attached for your signature, if you approve, are intercircuit assignments as follows:

A black rectangular box redacting the name of the assignee.

to

A black rectangular box redacting the name of the assignee.

A black rectangular box redacting the name of the assignee.

to

A black rectangular box redacting the name of the assignee.

Honorable Duane Benton
Eighth Circuit

to

Fourth Circuit
Any appeals or mandamus actions arising
from civil action 1:20-cv-00066-WGY, Caryn
Strickland v. United States

Honorable Susan Graber
Ninth Circuit

to

Fourth Circuit
Any appeals or mandamus actions arising
from civil action 1:20-cv-00066-WGY, Caryn
Strickland v. United States

The certificates of necessity and consent forms are attached. The Committee recommends your approval.

Attachments

cc: Honorable Robert M. Dow, Jr.



3

HONORABLE ROSLYNN R. MAUSKOPF
Director

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

LEE ANN BENNETT
Deputy Director

WASHINGTON, D.C. 20544

September 30, 2022

MEMORANDUM

To: The Chief Justice
From: Lee Ann Bennett *Lee Ann Bennett*
RE: INTERCIRCUIT ASSIGNMENTS

Attached for your signature, if you approve, are intercircuit assignments as follows:

Honorable Michael J. Melloy Eighth Circuit	to Fourth Circuit Any appeals or mandamus actions arising from Caryn Strickland v. United States, 1:20-cv- 00066-WGY (W.D.N.C.)
Honorable Ronald Lee Gilman Sixth Circuit	to Fourth Circuit Any appeals or mandamus actions arising from Caryn Strickland v. United States, 1:20-cv- 00066-WGY (W.D.N.C.)
Honorable Mary Beck Briscoe Tenth Circuit	to Fourth Circuit Any appeals or mandamus actions arising from Caryn Strickland v. United States, 1:20-cv- 00066-WGY (W.D.N.C.)

The certificates of necessity and consent forms are attached. The Committee recommends your approval.

Attachments

cc: Jeffrey P. Minear

EXHIBIT B

JUDICIAL CONFERENCE OF THE UNITED STATES

COMMITTEE ON INTERCIRCUIT ASSIGNMENTS

CERTIFICATE OF NECESSITY

Pursuant to 10 U.S.C. § 942(f) or 28 U.S.C. § 291(a), 292(d) or (e), 293(a), or 294(d), and the Guidelines for the Intercircuit Assignment of Article III Judges, I certify that a need exists for the designation and assignment of a United States judge from another circuit (or special court) to perform judicial duties in the following court:

United States Court of Appeals for the Fourth Circuit

Name and Title of Judge to be assigned:

Honorable Duane Benton

Judge, U.S. Court of Appeals for the Eighth Circuit

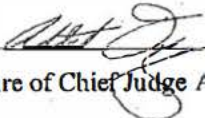
Period of assignment:

from

OR

Specific case(s): To perform judicial duties in the United States Court of Appeals for the Fourth Circuit for any appeals or mandamus actions arising from civil action 1:20-cv-00066-WGY, Caryn Strickland v. United States.

This requested assignment is for the period or purpose stated, and for such time as needed in advance to prepare and to issue necessary orders, or thereafter as required to complete unfinished business.


Signature of Chief Judge Albert Diaz

United States Court of Appeals for the Fourth Circuit

Name of Circuit (or special court)

Date: 4/25/2024

Please submit the signed form to the Intercircuit Assignments Database System via your circuit representative at least one month or more in advance of the assignment.

JUDICIAL CONFERENCE OF THE UNITED STATES

COMMITTEE ON INTERCIRCUIT ASSIGNMENTS

CERTIFICATE OF NECESSITY

Pursuant to 10 U.S.C. § 942(f) or 28 U.S.C. § 291(a), 292(d) or (e), 293(a), or 294(d), and the Guidelines for the Intercircuit Assignment of Article III Judges, I certify that a need exists for the designation and assignment of a United States judge from another circuit (or special court) to perform judicial duties in the following court:

United States Court of Appeals for the Fourth Circuit

Name and Title of Judge to be assigned:

Honorable Susan Graber

Senior Judge, U.S. Court of Appeals for the Ninth Circuit

Period of assignment:

from

OR

Specific case(s): To perform judicial duties in the United States Court of Appeals for the Fourth Circuit for any appeals or mandamus actions arising from civil action 1:20-cv-00066-WGY, Caryn Strickland v. United States.

This requested assignment is for the period or purpose stated, and for such time as needed in advance to prepare and to issue necessary orders, or thereafter as required to complete unfinished business.


Signature of Chief Judge Albert Diaz

United States Court of Appeals for the Fourth Circuit

Name of Circuit (or special court)

Date: 5/2/2024

Please submit the signed form to the Intercircuit Assignments Database System via your circuit representative at least one month or more in advance of the assignment.

JUDICIAL CONFERENCE OF THE UNITED STATES

COMMITTEE ON INTERCIRCUIT ASSIGNMENTS

CERTIFICATE OF NECESSITY

Pursuant to 10 U.S.C. § 942(f) or 28 U.S.C. § 291(a), 292(d) or (e), 293(a), or 294(d), and the Guidelines for the Intercircuit Assignment of Article III Judges, I certify that a need exists for the designation and assignment of a United States judge from another circuit (or special court) to perform judicial duties in the following court:

United States Court of Appeals for the Fourth Circuit

Name and Title of Judge to be assigned:

Honorable Ronald Lee Gilman

Senior Judge, U.S. Court of Appeals for the Sixth Circuit

Period of assignment:

from

OR

Specific case(s): To perform judicial duties in the United States Court of Appeals for the Fourth Circuit for any appeals or mandamus actions arising from civil action 1:20-cv-00066-WGY, Caryn Strickland v. United States.

All judges of the Fourth Circuit have recused in this case; identification and designation of an out-of-circuit judge is requested in accordance with the Judiciary's intercircuit assignment procedures.



Signature of Chief Judge Roger L. Gregory

United States Court of Appeals for the Fourth Circuit

Name of Circuit (or special court)

Date: September 15, 2022

Please submit the signed form to the Intercircuit Assignments Database System via your circuit representative at least one month or more in advance of the assignment.

EXHIBIT C



ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

HONORABLE ROBERT J. CONRAD, JR.
Director

LIBBY SMITH
Associate Director
Department of Program Services
JOSEPH T. PHILLIPS
Chief
Judicial Services Office

July 3, 2024

Mr. Maureen Gornik
Clerk, United States Court of Appeals for the Eighth Circuit
Thomas F. Eagleton U.S. Courthouse
111 South Tenth Street, Room 24.329
St. Louis, MO 63102-1116

Ms. Nwamaka C. Anowi
Clerk, United States Court of Appeals for the Fourth Circuit
Lewis F. Powell, Jr. U.S. Courthouse Annex
1100 East Main Street, Ste 501
Richmond, VA 23219-3525

Dear Mr. Gornik and Ms. Anowi:

Enclosed is the Chief Justice's designation of the Honorable Duane Benton of the United States Court of Appeals for the Eighth Circuit to perform judicial duties in the United States Court of Appeals for the Fourth Circuit in To perform judicial duties in the United States Court of Appeals for the Fourth Circuit for any appeals or mandamus actions arising from civil action 1:20-cv-00066-WGY, Caryn Strickland v. United States.. Pursuant to 28 U.S.C. § 295, please file and enter this assignment on the minutes of your respective courts.

Please feel free to contact me at (202) 502-1177 if you have any questions or concerns.

Sincerely,

A handwritten signature in cursive script that reads "Anne McKenna".

Anne McKenna
Senior Attorney
Judicial Programs

Enclosures: (Clerk of Lending Court, Mr. Gornik - Original Designation)
(Clerk of Borrowing Court, Ms. Anowi - Certified Copy of Designation)

cc: Honorable Duane Benton
Ms. Millie Adams
Mr. James N. Ishida



ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

HONORABLE ROBERT J. CONRAD, JR.
Director

LIBBY SMITH
Associate Director
Department of Program Services
JOSEPH T. PHILLIPS
Chief
Judicial Services Office

July 3, 2024

Ms. Molly Dwyer
Clerk, United States Court of Appeals for the Ninth Circuit
James R. Browning U.S. Courthouse
95 Seventh Street, Room 125
San Francisco, CA 94103-1518

Ms. Nwamaka C. Anowi
Clerk, United States Court of Appeals for the Fourth Circuit
Lewis F. Powell, Jr. U.S. Courthouse Annex
1100 East Main Street, Ste 501
Richmond, VA 23219-3525

Dear Ms. Dwyer and Ms. Anowi:

Enclosed is the Chief Justice's designation of the Honorable Susan Graber of the United States Court of Appeals for the Ninth Circuit to perform judicial duties in the United States Court of Appeals for the Fourth Circuit in To perform judicial duties in the United States Court of Appeals for the Fourth Circuit for any appeals or mandamus actions arising from civil action 1:20-cv-00066-WGY, Caryn Strickland v. United States.. Pursuant to 28 U.S.C. § 295, please file and enter this assignment on the minutes of your respective courts.

Please feel free to contact me at (202) 502-1177 if you have any questions or concerns.

Sincerely,

A handwritten signature in cursive script that reads "Anne McKenna".

Anne McKenna
Senior Attorney
Judicial Programs

Enclosures: (Clerk of Lending Court, Ms. Dwyer - Original Designation)
(Clerk of Borrowing Court, Ms. Anowi - Certified Copy of Designation)

cc: Honorable Susan Graber
Ms. Susan Y. Soong
Mr. James N. Ishida



HONORABLE ROSLYNN R. MAUSKOPF
Director

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

LEE ANN BENNETT
Deputy Director

ELIZABETH A. SMITH
Associate Director
Department of Program Services

JOSHUA C. LEWIS
Chief
Judicial Services Office

October 6, 2022

Ms. Deborah S. Hunt
Clerk, United States Court of Appeals for the Sixth Circuit
Potter Stewart U.S. Courthouse
100 East Fifth Street, Room 540
Cincinnati, OH 45202

Ms. Patricia S. Connor
Clerk, United States Court of Appeals for the Fourth Circuit
Lewis F. Powell, Jr. U.S. Courthouse Annex
1100 East Main Street, Ste 501
Richmond, VA 23219-3525

Dear Ms. Hunt and Ms. Connor:

Enclosed is the Chief Justice's designation of the Honorable Ronald Lee Gilman of the United States Court of Appeals for the Sixth Circuit to perform judicial duties in the United States Court of Appeals for the Fourth Circuit in Any appeals or mandamus actions arising from Caryn Strickland v. United States, 1:20-cv-00066-WGY (WDNC). Pursuant to 28 U.S.C. § 295, please file and enter this assignment on the minutes of your respective courts.

Please feel free to contact me at (202) 502-1177 if you have any questions or concerns.

Sincerely,

A handwritten signature in cursive script that reads "Anne McKenna".

Anne McKenna
Senior Attorney
Judicial Programs

Enclosures: (Clerk of Lending Court, Ms. Hunt - Original Designation)
(Clerk of Borrowing Court, Ms. Connor - Certified Copy of Designation)

cc: Honorable Ronald Lee Gilman
Mr. Marc A Theriault
Mr. James N. Ishida